

Case 1:20-cv-00491-MAC-ZJH Document 29 Filed 05/03/23 Page 1 of 2 PageID #: 139

EASTERN DISTRICT OF TEXAS

ELIJAH BURKE SWALLOW,

Plaintiff,

versus

ROD CARROLL, *et al.*,

Defendants.

CIVIL ACTION NO. 1:20-CV-491

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff Elijah Burke Swallow, proceeding *pro se*, filed the above-styled civil rights lawsuit against several defendants. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending this case be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

The court previously directed the United States Marshals Service to serve the defendants at the addresses provided by plaintiff. The attempt to serve the defendants was unsuccessful. Plaintiff was then directed to provide addresses at which another attempt at service could be made. Plaintiff was unable to provide addresses other than those previously provided. The magistrate judge then submitted his Report and Recommendation.

The court has carefully considered the objections. After such consideration, the court is of the opinion the magistrate judge correctly stated that plaintiff is responsible for providing addresses at which the defendants can be served. *Meade v. Reynolds*, 810 F. App'x 86, 88 (3rd

Cir. 2020); *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993). Plaintiff has been unable to provide correct addresses. In neither this case, nor in the lawsuit from which this case was severed,¹ have the defendants been served with process. As a result, this case will be dismissed pursuant to Rule 4(m).

ORDER

Accordingly, the objections filed by plaintiff in this matter (#25) are **OVERRULED**. The findings of fact and conclusions of law set forth in the report of the magistrate judge (#20) are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered in accordance with the recommendation of the magistrate judge.

SIGNED at Beaumont, Texas, this 3rd day of May, 2023.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE

¹ *Swallow v. Jefferson County Correctional Facility*, No. 1:17cv473 (E.D. Tex. Feb. 4, 2021).